

ENTERED

April 08, 2022

Nathan Ochsner, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

TOMMY ALLEN O'NEAL,

Petitioner,

VS.

BOBBY LUMPKIN,

Respondent.

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CIVIL ACTION NO. 2:21-CV-00282

ORDER ADOPTING MEMORANDUM AND RECOMMENDATION

Before the Court is Magistrate Judge Julie Hampton's Memorandum and Recommendation (M&R). (D.E. 10). The parties were provided proper notice of, and the opportunity to object to, the Magistrate Judge's M&R. *See* U.S.C. § 636(b)(1); FED. R. CIV. P. 72(b); General Order No. 2002-13. Petitioner filed what appears as, and what the Court liberally construes as, objections to the M&R. (D.E. 13). Having carefully reviewed the proposed findings and conclusions of the M&R, the record, the applicable law, and having made a de novo review of the portions of the M&R to which the Petitioner's objections were directed, 28 U.S.C. § 636(b)(1), the Court **OVERRULES** Petitioner's objections (D.E. 13). Accordingly:

- (1) The Court **ADOPTS** the M&R in its entirety. (D.E. 10).
- (2) Petitioner's habeas corpus petition (D.E. 1), filed pursuant to 28 U.S.C. § 2254, is **DISMISSED without prejudice** prior to service pursuant to the screening provisions in Rule 4 of the Rules Governing Section 2254 Cases. It is plain from the petition and attached exhibits that the petition is second or successive.

(3) A Certificate of Appealability is **DENIED**. *See* 28 U.S.C. § 2253(c).

A final judgement will be entered separately.

SO ORDERED.



DAVID S. MORALES
UNITED STATES DISTRICT JUDGE

Dated: Corpus Christi, Texas
April 8th, 2022